Annex to the note verbale dated 24 August 2009 from the Permanent Mission of Romania to the United Nations addressed to the Chairman of the Committee

Report submitted by Romania on the implementation of Security Council resolution 1874 (2009)

27 July 2009

In paragraph 22 of resolution 1874 (2009) the Security Council calls upon all States Members of the United Nations to report to the Security Council within 45 days of the adoption of the resolution on the steps they have taken with a view to implementing effectively its provisions.

According to the provisions of the Romanian legislation (Emergency Ordinance No. 202/2008, as approved by Law No. 217/2009), Security Council resolution 1874 (2009) was published in the Romanian *Official Journal* No. 554 of 10 August 2009, Part I, pages 12-15. However, the enforcement of the provisions of resolution 1874 (2009) by the Romanian institutions had been initiated on the date of its adoption, as Emergency Ordinance No. 202/2008 ensures the direct applicability and mandatory character at national level of international sanctions adopted by the Security Council (art. 3 (1), in conjunction with art. 1 (1) of Government Emergency Ordinance No. 202/2008) for all subjects of law they address, including natural and legal persons of private law, since their adoption by the Security Council.

Regarding the embargo on arms and dual-use items (paras. 9 and 10 of resolution 1874 (2009)):

- Romania has the following national legislation[1] requiring an export authorization for the sale, supply, transfer or export of arms and related materiel to third countries and an authorization for the provision of brokering services and other services related to military activities, which together with Common Position 2006/795/CFSP provides the basis for enforcement of the arms embargo against the Democratic People's Republic of Korea and the ban on related brokering services: Government Ordinance No. 158/1999 approved with amendments by Law No. 595/2004. According to this legislation, the National Agency for Export Controls (ANCEX)[2] has a rapid mechanism for the implementation of the mandatory arms embargoes imposed by Security Council resolutions, Common Positions and Joint Actions adopted by the European Union Council or OSCE Decisions. Article 28 (1) of Government Ordinance No. 158/1999 provides that "The Agency shall deny issuance of a license for operations involving military goods if the final recipient's state is under an embargo on weapons transfers established by a resolution of the United Nations Security Council, a common position or a

[1] This legislation should apply to all goods included in the Common Military List of the European Union, Official Journal of the European Union C 65, 19 March 2009, p. 1.

[2] National Agency for Export Controls (ANCEX) is the Romanian authority responsible for the control of exports, imports and other transfers of military goods, according to Government Ordinance No. 158/1999 approved with amendments by Law No. 595/2004.

joint action adopted by the Council of the European Union, or a decision by the Organization for Security and Co-operation in Europe". ANCEX fully complies with the new provisions imposed by Security Council resolution 1874 (2009). ANCEX regularly notifies the Romanian authorized companies involved in foreign trade with military goods and informed them immediately about the provisions of resolution 1874 (2009).

- Resolution 1874 (2009) will be used in the process of examination of licence requests, the consultancy requests received by ANCEX from companies regarding Romanian exports of dual-use items to the Democratic People's Republic of Korea and every time an operation interferes with the ANCEX field of activity. The text of resolution 1874 (2009) has also been published on the Agency's website. ANCEX has not yet been seized with an export licence request for the Democratic People's Republic of Korea.

Regarding the obligations to inspect (paras. 11-14 of resolution 1874 (2009)):

- The General Inspectorate of Border Police has taken measures to be notified regarding all imports, exports, transits to/from the Democratic People's Republic of Korea that may be the object of resolution 1874 (2009). All these operations will be brought to the knowledge of the General Inspectorate of Border Police within 20 hours after identification. Moreover, the following measures have been taken to implement the above-mentioned provisions:
  - raising of vigilance regarding transfer operations of small arms and light weapons
  - inspection of cargoes originating from or having as destination the Democratic People's Republic of Korea, if there are suspicions that they contain forbidden items
  - confiscation of all items identified as a result of the above-mentioned inspections, whose sale, transfer, provision or export are prohibited.

Regarding the financial restrictions (paras. 18-21 of resolution 1874 (2009)):

- The National Office for Preventing and Combating Money Laundering (ONPCSB) is the authority responsible with the surveillance and control of those financial institutions that are not under the surveillance of other authorities. In implementing resolution 1874 (2009), ONPCSB has taken the following measures:
  - published resolution 1874 (2009) on the official website of the institution (www.onpcsb.ro)
  - informed the reporting entities through instruction sessions and control activities periodically organized by ONPCSB for all categories of reporting entities under its supervision
  - assisted the reporting entities in their field of activity
  - continued monitoring and control of implementation of international sanctions in its field of competence
  - cooperated with all competent authorities for making the implementation of sanctions more efficient.

- The National Bank of Romania has informed the authorized credit institutions regarding the provisions of resolution 1874 (2009)
- The Private Pension Supervision Commission has published resolution 1874 (2009) on the official website of the institution and has informed the administrators of private pension funds of the restrictive measures against the Democratic People's Republic of Korea
- The Ministry for Medium and Small Enterprises, Commerce and Business has taken the following measures:
  - published resolution 1874 (2009) on the official website of the institution, as well in the "Business Journal" and distributed it to the Commerce Chambers and business associations in Romania
  - the divisions in charge of foreign trade policy within the Ministry have been instructed to act according to the provisions of resolution 1874 (2009)
- The Romanian National Securities Commission has informed the insurance companies about the financial sanctions provided for in resolution 1874 (2009).

Within the European Union

Romania and the other States members of the European Union have jointly implemented the restrictive measures against the Democratic People's Republic of Korea imposed by Security Council resolutions 1718 (2006) and 1874 (2009) by taking the following common measures:[3]

- Council Common Position 2006/795/CFSP of 20 November 2006,[4] as amended by Council Common Position 2009/573/CFSP of 27 July 2009.[5]

The Common Position sets out the European Union's commitment to implementation of all the measures contained in resolutions 1718 (2006) and 1874 (2009), and provides the basis for specific European Union implementing measures within the scope of the resolutions, notably:

- complete arms embargo
- export ban on certain other items, in addition to those determined by the sanctions Committee, which could contribute to the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea
- listing, to be decided by the Council of the European Union, of persons and entities subject to the visa ban and asset freeze, either by reason of their promotion or support of the Democratic People's Republic of Korea's programmes as mentioned above or because they provide

[3] All common measures are published in the *Official Journal of the European Union*, which can be consulted through the following web pages: http://eur-lex.europa.eu/JOIndex.do?ihmlang=en (published issues) and http://eur-lex.europa.eu/RECH_menu.do?ihmlang=en (search form).

[4] *Official Journal of the European Union* L 322, 22 November 2006, p. 32.

[5] *Official Journal of the European Union* L 197/111, 29 July 2009.

financial services or other resources that could contribute to those programmes

- enhanced monitoring over the activities of financial institutions within the jurisdiction of European Union member States with certain banks and financial entities linked to the Democratic People's Republic of Korea
- additional information requirements for aircraft and vessels transporting cargo to and from the Democratic People's Republic of Korea.

The European Union has adopted a Council Decision implementing Common Position 2006/795/CFSP and establishing, for the purpose of the visa ban and the asset freeze, the list of persons and entities in accordance with determinations made by the Sanctions Committee on 24 April and 16 July 2009.

- Council Regulation (EC) No. 329/2007 of 27 March 2007,[6] as amended by Commission Regulation (EC) No. 117/2008 of 28 January 2008[7] and Commission Regulation (EC) No. 389/2009 of 12 May 2009.[8]

The Council Regulation implements in the European Community the ban on exports of goods and technology which could contribute to the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea and on the provision of related services, the ban on procurement of goods and technology from the Democratic People's Republic of Korea, the ban on export of luxury goods to the Democratic People's Republic of Korea, as well as the freezing of funds and economic resources of persons, entities and bodies engaged in or providing support for the said Democratic People's Republic of Korea programmes as designated by the sanctions Committee and the prohibition of making funds or economic resources available to such persons or entities, with certain exemptions as provided for in resolution 1718 (2006).

Commission Regulation No. 117/2008 amends the Council Regulation by including the list of goods and technology subject to the export and import ban (other than luxury goods) as set out in annex I to the Council Regulation in accordance with determinations made by the sanctions Committee.

The Commission Regulation No. 389/2009 amends the Council Regulation by including the entities designated by the sanctions Committee on 24 April 2009 in the list of persons, entities and bodies subject to the asset freeze as set out in annex IV to the Council Regulation.

The Commission has adopted a Commission Regulation amending the Council Regulation by including goods in annex I and persons and entities in annex IV to the Council Regulation in accordance with determinations made by the sanctions Committee on 16 July 2009.

[6] *Official Journal of the European Union* L 88, 29 March 2007, p. 1.
[7] *Official Journal of the European Union* L 35, 9 February 2008, p. 57.
[8] *Official Journal of the European Union* L 118, 13 May 2009, p. 78.

- Council Regulation (EC) No. 539/2001 of 15 March 2001 (and its subsequent amendments).[9] This Regulation requires nationals of the Democratic People's Republic of Korea to be in possession of a visa when entering the European Union.

The above-mentioned Council Regulations are binding in their entirety and directly applicable in all States members of the European Union.[10] Regulation (EC) No. 329/2007 requires member States to determine the penalties applicable to infringements of their provisions. The penalties determined by Romania are set out in Government Emergency Ordinance No. 202/2008 on the implementation of international sanctions approved by Law No. 217 of 2 June 2009.

[9] *Official Journal of the European Union* L 81, 21 March 2001, p. 1.

[10] Regulation (EC) No. 539/2001 applies neither to Ireland nor to the United Kingdom.